

**MINUTES OF THE
STATE ELECTIONS ENFORCEMENT COMMISSION
July 14, 2004**

I. Call to Order

Vice Chairman Stephen Cashman called the meeting to order at 9:05 A.M. Present were Commissioners Cleary and Jenkins. Also present were staff members Messrs. Garfield, Lenge, Zepka, Smith, Crayton, Oyola, Ms. Kulmacz, Ms. Haqq, Ms. Adams and Ms. Blackburn.

II. Approval of the Minutes of the June 16, 2004 Regular Meeting

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to approve the minutes of the June 16, 2004 regular meeting. So voted.

III. Pending Complaints and Investigations

A. Public Session

1. Complaint of Matthew Fitch, Hamden
File No. 2003-271A
Proposed Findings and Conclusions
Proposed Stipulated Agreement and Consent Order
Respondent: Quinnipiac University
Investigators: Attorney Joan M. Andrews &
Attorney William B. Smith
Managing Attorney: Jeffrey B. Garfield

Mr. Garfield explained the above referenced complaint, the proposed Findings and Conclusions and the proposed Stipulated Agreement and Consent Order. The proposed Findings and Conclusions recommends dismissing the matter with regard to Mr. Bishghini due to insufficient evidence to conclude that he entered the polling place other than for purposes of verifying the addresses of students who had registered to vote. This is permitted under C.G.S. §9-170. The proposed Stipulated Agreement and Order has been signed by the attorney for Quinnipiac University, includes a henceforth order to comply with the requirements of CGS §9-333d, and sets forth certain prescribed standards for providing transportation to their students to the polls on Election Day.

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to adopt the proposed Findings and Conclusions as to Mr. Robert Bisighini and to adopt the proposed Stipulated Agreement and Consent Order in File No. 2003-271-A. So voted. A copy of the Findings and Conclusions is attached and incorporated herein as part of these minutes.

2. In Re: New London Municipal Election, New London
File No. 2003-274
Proposed Consent Agreement and Order
Respondent: Melanie J. McKinnon
Investigators: Attorney Marc W. Crayton &
Attorney William B. Smith
Managing Attorney: Jeffrey B. Garfield

Mr. Garfield summarized the above referenced matter. He explained that this is the fourth respondent in this matter. Respondent McKinnon is the Democratic Registrar of Voters in New London and she has signed the proposed Consent Agreement and Order. The Commission has agreed to remit the \$4,000 civil penalty to \$2,000 due to extreme financial hardship. Ms. McKinnon has paid the first installment of \$400 and agrees to pay \$400 each successive month with the final payment due on or before November 12, 2004. She also has been ordered to attend instructional sessions provided by the Secretary of the State. The matter will remain open as to Respondent Steve Bonneau. Commission Cleary has been designated to be hearing officer for that matter, and a hearing will be conducted in August.

It was moved by Commissioner Cleary and seconded by Commission Jenkins to adopt the proposed Consent Agreement and Order in File No. 2003-274 with regard to Melanie J. McKinnon. So voted. A copy of the Consent Agreement and Order is attached and incorporated herein as part of these minutes.

3. Complaint of Michael W. Germano, Jr., Hamden
File No. 2003-276
Proposed Consent Agreement and Order
Respondent: Curtis Leng
Investigator: Attorney Joan M. Andrews
Managing Attorney: Albert P. Lenge

Mr. Garfield explained the above referenced matter. He stated that a faxed copy of the proposed Consent Agreement and Order with Mr. Leng's signature has been received and Mr. Leng has stated that the original agreement and the civil penalty of \$100 has been mailed.

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to adopt the proposed Consent agreement and Order contingent upon receipt of the original signed agreement and the civil penalty within seven days from today. So voted. A copy of the Consent Agreement and Order is attached and incorporate herein as part of these minutes.

B. *Executive Session per C.G.S. 1-200(6)(B) and (E), and 1-210(b)(4)*

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins at 9:22 A.M. to proceed into Executive Session pursuant to C.G.S. 1-200(6)(B) and (E) and 1-210(b)(4) to discuss strategy and negotiations with respect to pending claims listed as Items 4 through 7 on the agenda. So voted. Present were Commissioner Cashman, Cleary and Jenkins. Staff members present were Messrs. Garfield, Lenge, Zepka, Oyola, Smith Crayton, Ms. Kulmacz, Ms. Haqq, Ms. Adams and Ms. Blackburn.

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to return to public session at 10:15 A.M. So voted.

The Commission took the following action:

4. Complaint of Henry W. Stormer, Southbury

File No. 2004-111

Investigator: Attorney William B. Smith &
Accountant Dianna J. Kulmacz

Managing Attorney: Albert P. Lenge

This matter was continued.

5. Complaint of Ellen Camhi, Stamford

File No. 2004-164

Investigator: Attorney Marc W. Crayton &
Lead Legal Investigator Gilberto Oyola

Managing Attorney: Jeffrey B. Garfield

The staff has concluded and the Commission has agreed that there is insufficient evidence to warrant a referral of this matter to the Attorney General. The Commission will not be seeking a court order to stop the scheduled primary in the 144th Assembly District in Stamford. Mr. Garfield stated that this matter is continued.

6. Complaint of Robert R. Simpson, Hartford

File No. 2004-165

Investigator: Attorney William B. Smith

Managing Attorney: Jeffrey B. Garfield

Mr. Garfield summarized the proposed Stipulated Agreement in the above referenced matter. The agreement is an order to comply with C.G.S. §9-412. Mr. Garfield stated that the Hartford Democratic

Registrar of Voters, Olga I. Aviles, agrees with the Office of the Secretary of the State and this Commission that her ruling to accept the petitions in question was erroneous and agrees to comply with the law by conforming her ruling on the petitions to the requirements of C.G.S. §9-412. Accordingly, Ms. Villanueva did not submit sufficient valid signatures to qualify for the primary in the 4th Assembly District and the primary will not go forward on August 10, 2004.

It was moved by Commissioner Cleary and seconded Commissioner Jenkins to adopt the proposed Stipulated Agreement that has been signed by the parties, however in the event that the Respondents fail to comply with the provisions of the stipulated agreement, the Commission will authorize a referral to the Attorney General for necessary action to enforce C.G.S. §9-412. So voted. A copy of the Stipulated Agreement is attached and incorporated herein as part of these minutes.

7. Complaint of Representative Kenneth P. Green, Hartford
File No. 2002-226
Respondent: Barnaby Horton
Investigators: Attorney Joan M. Andrews &
Attorney Marc W. Crayton
Managing Attorney: Jeffrey B. Garfield

Mr. Garfield summarized the above referenced matter. The proposed Stipulated Agreement is for violations of C.G.S. §9-140b. The Commission authorized Mr. Garfield as General Counsel to pursue the matter following the decision by the Court in State v. Horton which was referred by the Commission to the Chief States Attorney's Office regarding alleged violations of absentee ballot voting laws committed by former State Representative Barnaby Horton of the City of Hartford in connection with a primary that he was involved in August 2002. The Court had granted accelerated rehabilitation to Mr. Horton on May 28, 2004 and the Commission authorized Mr. Garfield to try resolving the matter with him. Mr. Garfield negotiated with Mr. Horton's attorney and reached an agreement. Mr. Horton has expressed his remorse over his conduct and regrets his actions in connection with the matter. He has paid a civil penalty of \$10,000 which is the highest civil penalty imposed by this Commission against any individual for violations of absentee ballot voting in its history. In addition to payment of the civil penalty, Mr. Horton shall henceforth comply with C.G.S. 9-140b, further agrees not to seek nomination or election for a period of two years from the date he signed the agreement and also agrees not to solicit absentee ballots or assist with absentee ballot application in the future. He further agrees not to witness or be present during the execution of absentee ballots or take possession of any such ballots, except with respect to his own absentee ballot should he require one.

It was moved by Commission Cleary and seconded by Commission Jenkins to adopt the proposed Stipulated Agreement and Order in File No. 2002-226. So voted. A copy of the Stipulated Agreement and Order is attached and incorporated herein as part of these minutes.

***IV. Designation of Hearing Officer
Referral by the Office of the Secretary of the State***

File No. 2004-157NF
The Hartford Together Committee
Respondent: Lelia Bouyer
Investigator: Paige Adams, Paralegal
Managing Attorney: Albert P. Lenge
Recommendation: Find Reason to believe that Respondent
Lelia Bouyer violated Section 9-333j and
9-333y of the Connecticut General Statutes

The above matter has been resolved, and the Respondent has complied.

The Commission then recessed for five minutes.

V. Regulations Implementing HAVA Administrative Complaint Procedure

Mr. Garfield began the discussion of the draft regulations implementing the Administrative Complaint Procedure as required by the federal Help America Vote Act of 2002 and Public Act 04-74. The proposed regulations prescribe a special complaint procedure for handling those complaints made under the Federal Act. The November 2004 election will be the first election under the Federal HAVA, which includes provisional balloting, and special voter identification for those who use the mail in voter registration. Mr. Garfield congratulated Attorney Andrews' for her efforts in drafting the regulations, and Ms. Adams' for her excellent research. Attorney Andrews memo to the Commissioners explains the proposed regulations and the amendments to the Commission's existing regulations that were made to accommodate the new procedure. The notice of intent to adopt regulations was published in the CT Law Journal on July 6th. The regulations meet the requirements of the federal law, the 90 day time limit for deciding cases and the Alternative Dispute Resolution procedure. Mr. Garfield summarized the proposed changes and the Commission discussed each proposal.

Following the discussion, the Commission decided on three changes to the draft regulations. Those changes are as follows: 1) notice to the Respondent of the complaint will be given by the agency and not by the Complainant; 2) a continuance can be requested by the Respondent and granted for good cause, provided there is no waiver of the 90 day deadline; and 3) the Executive Director may subsequently sever one or more complaints that have been consolidated if justice requires.

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to approve the regulations as amended for submission the Attorney General for determination of legal sufficiency, and then to submit them to the Legislative Regulations Review Committee. So voted. Commission Cleary commended Attorney Andrews and Ms. Adams for a great job.

VI. *Adjournment*

Mr. Garfield requested that the next meeting scheduled for August 11 be rescheduled because of a conflict. The Commission agreed that the meeting would be rescheduled to August 18, 2004 at 9:00 a.m.

It was moved by Commissioner Cleary and seconded by Commissioner Jenkins to adjourn the meeting at 11:26 A.M. So voted.

Unless otherwise indicated, all votes of the Commission were unanimous.

The next regular meeting scheduled for Wednesday, August 11, 2004 at 9:00 a.m. will be **rescheduled for a special meeting Wednesday, August 18, 2004 at 9:00 a.m.**

Respectfully submitted,

Lois E. Blackburn
Clerk of the Commission